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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,317

01/19/2006

Brian Smith

1995.74509

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24978 7590 11/02/2009  
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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

11/02/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,317	<b>Applicant(s)</b> SMITH, BRIAN	
	<b>Examiner</b> BASIL KATCHEVES	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 29-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/16/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The applicant has filed the amendment of 9/24/09 in which claims 25-28 have been cancelled and claim 31 has been added. Pending claims 1-8, 29-31 are examined below.

#### ***Claim Rejections - 35 USC § 112***

Claims 7 and 8 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of juxtaposed has been added, this is not in the specification.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-8 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,649,682 to Barrett, Jr. in view of U.S. Patent No. 6,708,459 to Bodnar.**

Regarding claims 1, 4, 29, and 31, Barrett discloses a composite panel (fig. 1) having a frame which includes C shaped members (fig. 8: 38) which has a web (fig. 8:

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where 108 points) two transverse flanges (see both flanges 38), wherein a first flange (lower flange) is completely embedded in a concrete (column 3, lines 36-39) slab with the web extending outward from the rear of the slab. However, Barrett does not disclose the flange as having a reinforcing layer fastened to it. Bodnar discloses a panel with C beams, concrete and a mesh reinforcement (72) attached to a C beam via a tab and tab opening (80). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Barrett by adding the mesh and tab connection, as disclosed by Bodnar, in order to better reinforce the concrete. Also, the use of mesh in concrete is standard practice and is a well known means of strengthening concrete panels. Also, Barrett discloses the basic claim structure of the instant application but does not disclose specific density dimensions in the range of 400 to 1760 kg/m<sup>3</sup> or 960 to 1200 kg/m<sup>3</sup> as claimed by the applicant. Applicant fails to show criticality for specifically claimed range, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claims 2 and 30, Barrett does not particularly disclose the use of aerated concrete. However, Barrett discloses the use of cementitious mixtures or more broadly, a hardenable material (column 3, line 37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an aerated concrete, since this is a standard concrete used in panels and Barrett teaches a hardenable material such as a cement mixture. The use of aerated concrete would have been an obvious design choice.

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Regarding claim 3, Barrett discloses the C beams as having first and second flanges and a web in between, the second flange extends from the web at an opposite end than that of the first flange.

Regarding claim 5, Barrett in view of Bodnar discloses a slit and expanded metal (Bodnar 74 & 72).

Regarding claim 6, Barrett discloses opening in the panels surrounded by the frame members (window and door openings, last two lines of abstract and 1: utility box openings).

Regarding claims 7 and 8, Barrett discloses an outer member (fig. 8: 106) which is L shaped (center and left side) has one leg attached to the web (where 106 points) and the other leg (opposite to 110) attached to the front face of the slab and extends parallel to the first flange. Regarding the limitation of removably and permanently, the applicant should note that any connection is inherently permanent until removed. These connections are inherently capable of being removed and inherently capable of remaining permanent.

### **Response to Arguments**

Applicant's arguments filed 9/24/09 have been fully considered but they moot under new grounds of rejections necessitated by the applicant's amendment.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to slabs in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635